

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JERRY DEFOREST GRAVES, III,

Petitioner,

v.

UNITED STATES,

Respondent.

§
§
§
§
§
§
§
§
§
§

Case No. 6:19-CV-304-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner Jerry Deforest Graves, III, proceeding *pro se*, filed the instant petition for a writ of habeas corpus. This case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On July 15, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 11), recommending that the petition be dismissed as moot because Petitioner already received the relief he was seeking. A return receipt indicating delivery to Petitioner was received by the Clerk on July 29, 2019 (Docket No.12).

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Petitioner did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they


are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation (Docket No. 11) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No.11) be **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE** as moot. A certificate of appealability is **DENIED**. All motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this **20th** day of **August, 2019**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE